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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,229	09/16/2003	Chester Malkowski JR.	03AB105/YOD ALBR:0125	2115
7590 06/03/2005			EXAMINER	
Alexander M. Gerasimow Allen-Bradley Company, LLC 1201 South Second Street Milwaukee, WI 53204-2496			MCCLLOUD, RENATA D	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,229

Applicant(s)

MALKOWSKI ET AL.

Examiner

Renata McCloud

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-10,13,15-21,23,26,28 and 30-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-10,13,15-21,23,26,28 and 30-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 3,5-10,13,15-21,23,26,28,30-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1: The limitations "bypass relay" and "bypass relay having a relay coil and a third set of contacts" are not described in the specification.

Claim 5: The limitation "relay coil" is not described in the specification. Also, a fourth contact electrically coupled in series with the relay coil" is not described in the specification.

Claim 6: the limitations "bypass relay" and "a fourth contactor to de-energize the bypass relay" are not described in the specification.

Claims 10, 15, 16, 20, 34, 37: The limitation "the bypass relay" is not described in the specification.

Claim 26: a "bypass relay" and "relay" are not described in the specification

Claims 28, 30: a "relay" is not described in the specification.

Claim 31: the "bypass relay having a coil and a set of bypass contacts" and the "coil" are not described in the specification

Claim 32: a "bypass relay coil" is not described in the specification

Claim 35: the limitations "bypass relay" and "bypass relay coil" are not described in the specification.

Claim 36: the limitations "bypass relay coil" and "coil of the control relay" are not described in the specification.

Claims 3,7-9,13,17-19,21,23,33: rejected due to dependency from rejected independent claims

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 recites the limitation "the manual bypass switch". There is insufficient antecedent basis for this limitation in the claim.

Claim 34: the limitation "can" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim 31 recites the limitation "the external power source". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3,5,8,9, 20, 21, 28, 31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Owen (US 5130628).

Claims 1: a motor control system comprising a first set of contacts (Fig. 2: x2,x4,x6) coupled in series with an input of a variable frequency drive (Fig. 2: 44); and a second set of contacts (Fig. 2: 46) coupled in series with an output of the variable frequency drive (Fig. 2: 44); an operator (Fig. 2: the switch connected to the contacts) having a first position and a second position, wherein the first and second sets of contacts (Fig. 2: x2,x4,x6 and 46) are closed when the operator is in the first position (Fig. 2: switch to the right) and the first and second sets of contacts are open when the operator is in the second position (Fig. 2: switch to the left; Col. 4:52-57); a bypass contactor (fig 2:x1) having a coil (Fig. 1a:10) and a third set of contacts (Fig.2:terminals of x1) coupled in parallel with the first and second sets of contacts; the switch being configured to energize the relay coil (Fig. 1a:10) and close the third set of contacts (Fig. 1a:x1) when the first and second contacts are open (Col. 4:47-65)

Claim 3: the operator is adapted to be manually positioned in the first and second positions (Fig. 2: left or right; Col. 4:37-40 discloses the switches are selectably connected; also, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138).

Claim 8: a terminal (Fig. 2: terminal from 46) adapted to receive a conductor coupled to the motor, wherein the second set of contacts (Fig. 2:46) are coupled to the terminal.

Claim 9: a variable frequency drive (Fig. 2: 44).

Claim 20: a controller (Fig. 2:44) to drive a motor (Fig. 2:42); a bypass switch (Fig. 2: 50) in parallel with the controller (44); a bypass switch (fig. 2:x1,x3,x5) to couple a power source (Fig. 5: 3 phase source) to the controller (Fig. 2:44) and the motor (Fig. 2: 42); the bypass

switch isolates the controller (44) from the power source (Fig. 5: 3 phase source) and from the motor (42) and to close a relay to couple the motor to the source (Fig. 2: switch to the left; Col. 4:52-57).

Claim 21: the motor drive comprises a variable frequency drive (Fig. 2: 44).

Claim 23: the switch is a double break switch (x2,x4,x6;46)

Claim 28: orienting a switch (Fig. 2: x2,x4,x6) in a first position to coupled a power source (Fig. 5: 3 phase source) to a variable frequency drive (Fig. 2: 44) and couple to drive to a motor (Fig. 2: 42); and positioning the switch (Fig. 2: x2,x4,x6) in a second position to remove power from the drive (Fig. 2: 44) and de-couple the drive from the motor (Fig. 2:42; Fig. 2: switch to the left; Col. 4:52-57).

Claim 31: a variable frequency drive (Fig. 2) adapted to produce a variable frequency output to control the speed of a motor (42)(it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138); a bypass switch (50) having first and second sets of contacts for coupling the drive to a power source (Fig. 5: 3 phase source) and a motor (42), and a set of auxiliary contacts (y1,y3,y5) a bypass contactor (fig 2:x1) having a coil (Fig. 1a:10) and a third set of contacts (Fig.2:terminals of x1) coupled in parallel with the first and second sets of contacts; the switch being configured to energize the relay coil (Fig. 1a:10) and close the third set of contacts (Fig. 1a:x1) when the first and second contacts are open (Col. 4:47-65)

Claim 33: the bypass switch has first and second positions, the first position enabling the drive, the second position isolating the (Col. 4:52-57).

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. In response to Applicant's argument that Owen does not disclose a bypass relay, Owen teaches a relay (fig. 1a:x1) coupled to a coil (Fig 1a:10). Applicant's disclosure does not describe or define a bypass relay, there is nothing in Applicant's claim language or disclosure that precludes the examiner from reading Owen as meeting the claimed limitations.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (571) 272-2069. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2800 ext. 4. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Renata McCloud
Examiner
Art Unit 2837

RDM


MARLON T. FLETCHER
PRIMARY EXAMINER